



General Assembly

Amendment

January Session, 2009

LCO No. 8697

SB0115708697HDO

Offered by:

REP. LAWLOR, 99th Dist.

SEN. MCDONALD, 27th Dist.

To: Subst. Senate Bill No. 1157

File No. 678

Cal. No. 662

**"AN ACT CONCERNING FUNDING FOR LEGAL SERVICES AND
JUDICIAL BRANCH TECHNOLOGY."**

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 51-81c of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2009*):

5 (a) A program for the use of interest earned on lawyers' clients'
6 funds accounts is hereby established. The organization administering
7 the program shall use such interest to provide funding for (1) the
8 delivery of legal services to the poor by nonprofit corporations whose
9 principal purpose is providing legal services to the poor, and (2) law
10 school scholarships based on financial need. Each lawyer and law firm
11 having a clients' funds account shall participate in the program. On
12 and after July 1, 2005, each entity, other than a borrower, having an
13 account established to receive loan proceeds from a mortgage lender,
14 as defined in this subsection, shall participate in the program. Under

15 the program, funds in accounts established to receive such loan
16 proceeds, regardless of the amount or period held, and [clients'] a
17 client's funds that [are less than ten thousand dollars in amount or
18 expected to be held for a period of not more than sixty business days]
19 the client's lawyers and law firms determine, in good faith, cannot earn
20 income for the client in excess of the costs incurred to secure such
21 income, shall be deposited by participating lawyers, law firms and
22 entities in interest-bearing accounts specifically established pursuant to
23 the program. Funds deposited in such accounts shall be subject to
24 withdrawal upon request by the depositor and without delay. The
25 interest earned on such accounts shall be paid to an organization
26 qualified under Section 501(c)(3) of the Internal Revenue Code of 1986,
27 or any subsequent corresponding internal revenue code of the United
28 States, as from time to time amended, which shall be designated to
29 administer the program by the judges of the Superior Court pursuant
30 to subsection [(b)] (d) of this section. Nothing in this section shall
31 prevent (A) a lawyer or law firm from depositing a client's funds,
32 regardless of the amount of such funds or the period for which such
33 funds are expected to be held, in a separate interest-bearing account
34 established on behalf of and for the benefit of the client, or (B) an entity
35 from depositing a person's loan proceeds, regardless of the amount of
36 such proceeds or the period for which such proceeds are expected to
37 be held, in a separate interest-bearing account established on behalf of
38 and for the benefit of the person. The organization administering the
39 program shall mail to each lawyer, law firm and entity participating in
40 the program a detailed annual report of all funds disbursed under the
41 program including the amount disbursed to each recipient of funds.
42 Any recipient of funds under the program which, using program
43 funds, represents a party in an action filed after July 1, 1992, against
44 the state or any officer or agency thereof and is awarded attorney's fees
45 in such action by the court, shall reimburse the program for the
46 amount of attorney's fees received in proportion to the percentage of
47 program funds used for the litigation. No recipient of funds under the
48 program may use such funds to pay the occupational tax imposed
49 pursuant to section 51-81b on behalf of any attorney. As used in this

50 section, "mortgage lender" means any person engaged in the business
51 of making mortgage loans, including, but not limited to, a bank, out-
52 of-state bank, Connecticut credit union, federal credit union, out-of-
53 state credit union, mortgage lender or mortgage correspondent lender
54 required to be licensed under sections 36a-485 to 36a-498a, inclusive.

55 (b) For the purpose of determining under subsection (a) of this
56 section whether a client's funds cannot earn income for the client in
57 excess of the costs incurred to secure such income, the lawyer or law
58 firm shall consider the following factors: (1) The amount of the funds
59 to be deposited; (2) the expected duration of the deposit, including the
60 likelihood of delay in resolving the relevant transaction, proceeding or
61 matter for which the funds are held; (3) the rates of interest, dividends
62 or yield at eligible institutions where the funds are to be deposited; (4)
63 the costs associated with establishing and administering interest-
64 bearing accounts or other appropriate investments for the benefit of
65 the client, including service charges, minimum balance requirements
66 or fees imposed by the eligible institutions; (5) the costs of the services
67 of the lawyer or law firm in connection with establishing and
68 maintaining the account or other appropriate investments; (6) the costs
69 of preparing any tax reports required for income earned on the funds
70 in the account or other appropriate investments; and (7) any other
71 circumstances that affect the capability of the funds to earn income for
72 the client in excess of the costs incurred to secure such income.

73 (c) No lawyer shall be subject to a complaint that the lawyer is
74 guilty of misconduct for determining in good faith to deposit funds in
75 the interest earned on lawyers' clients' funds account in accordance
76 with this section.

77 [(b)] (d) The judges of the Superior Court shall adopt rules to
78 implement the program for the use of interest earned on lawyers'
79 clients' funds accounts, provided nothing in this section shall grant to
80 the judges of the Superior Court or any other judicial authority any
81 legislative, regulatory or rule-making authority over banks, insurance
82 companies or other financial institutions.

83 [(c)] (e) The program shall not require the banking corporations or
84 financial institutions receiving such funds, holding such accounts and
85 paying interest on such accounts to the depositors of the account to
86 perform any additional administrative functions or assume any
87 additional responsibilities or obligations in connection with the
88 program or the accounts so maintained.

89 [(d)] (f) An advisory panel shall be established to perform the
90 functions described in subsection [(e)] (g) of this section consisting of
91 five members to be selected as follows: Three members shall be
92 appointed by the Governor, one of whom shall be an executive
93 director of a nonprofit corporation which provides legal services to the
94 poor in this state; and two members shall be appointed by the
95 cochairpersons of the joint standing committee of the General
96 Assembly having cognizance of matters relating to the judiciary. Each
97 member of the panel shall serve for a term which is coterminous with
98 the term of the member's appointing authority. A vacancy shall be
99 filled by the original appointing authority for the balance of the
100 unexpired term.

101 [(e)] (g) The advisory panel shall: (1) Consult with and make
102 recommendations to the tax-exempt organization administering the
103 program regarding the implementation and administration of the
104 program, including the methods of allocation and the allocation of
105 funds to be disbursed under the program; (2) review and evaluate, and
106 monitor the impact of the program; and (3) report on the program to
107 the joint standing committees of the General Assembly having
108 cognizance of matters relating to the judiciary and to banks and to the
109 Chief Court Administrator, as may from time to time be requested by
110 such committees or administrator."